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March 31, 1998

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
Washington, DC 20554

RECEIVED

MAR 31 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Written Ex Parte in:

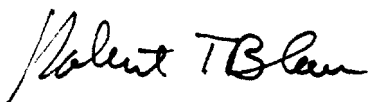
CC Docket No. 97-208, CC Docket No. 97-231,
CC Docket No. 97-121, CC Docket No. 97-137,
And CC Docket No. 96-98/

Dear Ms. Salas:

This is to inform you that BellSouth Corporation has submitted today as a written ex parte a list of questions and issues related to compliance with the requirements of Section 271 and 272 of the Communications Act of 1934, as amended. The list is a response to a request of Common Carrier Bureau staff made at a meeting they held with representatives of BellSouth Corporation at which they discussed issues related to the requirements of Sections 251, 271 and 272 of the Communications Act of 1934, as amended. Notice of that meeting was filed with you on March 25, 1998.

Pursuant to Section 1.1206(a)(1) of the Commission's rules, we are filing two copies of this notice and that written ex parte presentation. Please associate this notification with the above-referenced proceedings.

Sincerely,



Attachment

cc: Carol Matthey
Richard Welch
Richard Metzger



Robert T. Blau, Ph.D, CFA
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March 31, 1998

Ms. Carol Matthey, Chief
Policy and Program Planning Division
Common Carrier Bureau
Federal Communications Commission
Washington, DC 20554

Written Ex Parte in CC Docket No. 97-208, CC Docket No. 97-231, CC Docket
No. 97-121, CC Docket No. 97-137 and CC Docket No. 96-98

Dear Ms. Matthey:

In a series of meetings occurring over the past three months your staff and representatives of BellSouth have discussed all of the issues described in your Public Notice of January 27, 1998. At the close of our meeting on March 24, 1998, BellSouth agreed that we would prepare a list of outstanding questions and issues still remaining after those numerous and lengthy discussions and would share it with the staff at our March 31 meeting.

Attached is the list of questions and issues we have identified. We do not view the list as exhaustive because we recognize that further discussions relating to checklist item 2 and Section 272 compliance may identify other issues on which we shall need to seek additional guidance. For this reason, at the end of those discussions we may submit a supplemental list of outstanding issues relating to that checklist item and that statutory provision.

The collaborative process undertaken over the past three months has been very helpful to BellSouth as it prepares again to seek authorization to provide long distance service throughout its local service territory. We are committed to working with the staff to clarify the remaining issues identified in the attachment, as well as any issues that they have identified.

If after reviewing this attachment your staff concludes that it needs additional information related to these topics, please call me at (202) 463-4108.

In compliance with Section 1.1206(a)(1) of the Commission's rules, we have today filed with the Secretary of the Commission two copies of this written ex parte presentation in each of the proceedings listed above and requested that it be associated with each of those proceedings.

Sincerely,

Attachment

cc: Richard Welch
Richard Metzger

General Questions

1. In our meeting on February 10, you committed to telling us if our discussions had revealed any "show stoppers." Could you tell us now whether you have identified any show stoppers and, if so, what they are?
2. What is the minimum set of performance measurements that a BOC must implement to show compliance with the fourteen point checklist?
3. What must an RBOC do to demonstrate checklist compliance when contractual obligations or those imposed by state regulators conflict with obligations imposed by the Commission?
4. Has the staff determined whether the Commission could grant a conditional authorization? If so, has it identified circumstances in which it would grant such an authorization?

Checklist Item #2 - Access to UNEs

1. In responding to Senator McCain's letter you said the following about checklist item 2:

A BOC must also demonstrate that the interfaces used to access its OSS functions allow competing carriers to transfer the information received from the BOC . . . among the various interfaces provided by the BOC (e.g., pre-ordering and ordering interfaces).

What does this statement mean? To show compliance with this checklist item, must the RBOC demonstrate that its OSS allow the CLEC to transfer information between the pre-ordering and ordering interfaces?

2. In that same discussion you said:

While actual commercial usage is the most probative evidence that the BOC's OSS functions are operationally ready, the Commission will also consider carrier-to-carrier testing, independent third-party testing, and internal testing

Does "operationally ready" mean "working?" If so, a machine-to-machine interface cannot be "operationally ready" until a CLEC decides to build its side. Please clarify.
What performance data could we provide to show that BellSouth is sufficiently "responsive" when it provides "support functions."

3. In that same discussion, at one point you state that ILECs must provide technically feasible methods of obtaining interconnection or access to UNEs that include, but are not limited to, physical and virtual collocation." At another point you indicate that:

a BOC may satisfy the nondiscrimination requirement by providing physical or virtual collocation . . . [or] logical or electronic methods for combining network elements for, or combining the elements on behalf of competing carriers for a separate charge.

In your view can an ILEC satisfy this checklist item solely through the provision of physical and virtual collocation?

4. Do you interpret Section 51.321 of the Commission's rules to

require an RBOC to make available upon request "electronic access" or "logical access" to unbundled network elements? In your opinion, in order to be in compliance with this checklist item must an RBOC offer such access?

5. You also indicate that in deciding whether carrier using a particular method had provided nondiscriminatory access, you would look at such information as the length of time it takes new entrants to obtain and combine elements.

In determining whether a particular method of providing access is nondiscriminatory, do you intend to compare the times required to provide access through this method to the time required to provide access using another method? If so, which method(s) would be the basis for comparison?

Does this mean that physical collocation is per se too lengthy a process to comply with this checklist requirement? Do you have a minimum time frame within which an RBOC must implement a collocation request to show compliance with this checklist item?

Can collocation meet the requirement that access be provided so that CLECs can recombine elements? If not, what else must an RBOC do?

Checklist Item # 3 - Access to Poles, Ducts and Conduits

1. Our discussions have made clear that the staff expects that we not favor ourselves over other telecommunications carriers with respect to access to poles, ducts, and conduits. In your response to Senator McCain's letter, however, you also indicated that a utility should not favor itself over other parties with respect to the provision of video programming services. For this reason we ask whether the nondiscriminatory access required by Section 271 (c)(2)(B)(iii) extends to providers of video programming services too?

Checklist Item # 4 - Access to Unbundled Local Loops

1. In your discussion of checklist item 4 in your response to the McCain letter, you said:

if it is technically feasible to unbundle a loop to allow the CLEC to provide greater bandwidth than that previously provided by the BOC over that loop, the BOC must show that it provides such functionality."

What did you mean by this statement?

2. How do you expect BellSouth to meet the statutory nondiscrimination requirement when a requested loop is integrated with other loops through IDLC technology?
In our meeting on March 10, we noted that some of our state commissions had found some of the methods Commission staff suggested for unbundling loops behind an IDLC not to be technically feasible. If you decide that to demonstrate compliance with this checklist item, a BOC must use one or more of these methods, are you proposing to preempt contrary state rulings? If you do not preempt, how would you expect us to reconcile this jurisdictional conflict? As a practical matter, how are we to handle this in preparing our 271 applications?

Checklist Item # 5 - Access to Unbundled Local Transport

1. Have you determined yet whether the transport link between a BOC's switch and a third party's switch must be shared, dedicated, or subject to a transiting arrangement when a new entrant purchases shared transport?
2. Is it your view that to demonstrate compliance with this checklist item, BellSouth must permit CLECs to use shared transport to carry intrastate access traffic? If so, how do you require this without impinging upon the pricing authority of state commissions? Would your concerns be alleviated if the state commission prescribed a rate equal to intrastate access charges for use of unbundled transport to provide intrastate access service?

Checklist Item # 6 - Access to Unbundled Local Switching

1. In response to the McCain letter you said the following:

A BOC must show that it provides nondiscriminatory access to "vertical features that the switch is capable of providing."

In our March 10 meeting we discussed this issue. Can you clarify what you mean by the term "capable of providing?" In particular, if a capability is included in a generic software package installed in a BellSouth switch, but BellSouth has not activated that capability for its own customers, must it do so for a CLEC?

2. What did you mean when you said in response to the McCain letter that a BOC must show it provides nondiscriminatory access to "technically feasible customized routing functions."

3. In that response you also said:

At the request of participants in the 271 dialogue, Bureau staff is discussing various methods a BOC may employ to offer nondiscriminatory access to its operations support systems with respect to switching.

What does the phrase "operations support systems with respect to switching" mean? Have you completed your discussions on this subject and, if so, what conclusions did you reach?

4. In response to the McCain letter you said that if transfer of a customer's local service to a competing carrier using unbundled local switching requires only a change in the BOC's software, the BOC must be able to make that transfer within a time period no greater than the interval within which the BOC makes PIC changes. In our meeting on January 14, we had explained to you that the former transfer requires us to do more than a PIC change. At that time you indicated that you would talk with CLECs to see if this was the case and to assess the magnitude of the problem. Could you explain the basis for your concluding that it is reasonable to apply the interval for PIC changes as the performance measurement for the judging whether local service transfers are in compliance with this checklist item?

5. Have you selected the standard for distinguishing between a vertical feature with two functions and two vertical features? If so, would you tell us what the standard is?
6. In our March 10 meeting, you suggested that you might apply a three-step test to judge the reasonableness of the method we used to assign class codes when such codes available for assignment were at risk of exhausting. Have you determined whether we must meet that test in order to demonstrate compliance with this checklist item?
7. We have said that the DUF we provide a CLEC contains the information that CLEC needs to do its billing. In our March 10 meeting CCB staff stated that as part of our showing of compliance with this checklist item, we needed to show that we provide this information through a mechanized means. You observed that to the extent that we have a CLEC using the mechanized means, this would be good evidence of its adequacy. What kind of evidence would suffice if no CLEC is yet using our ability to provide DUF through mechanized means?
8. During the March 10 meeting you indicated that you liked our "originating party pays" approach, but were uncertain that this approach was consistent with the requirements of the Local Competition Order. You were going to talk with the eighth floor about the use of this approach to show compliance with this checklist item. What guidance have you received on this point?
9. In order to be in compliance with this checklist item, must BellSouth have revised all interconnection agreements under which vertical services are treated like retail services rather than UNEs?
10. In questions 2 for checklist item 5, we raise issues related to the shared transport UNE and intrastate access. Those same issues arise for switching. How would you answer those questions for unbundled switching?

Checklist Item # 7 - Access to 911/E911, OS/DA

1. Focusing on our enabling CLECs' to download the DA database, how do you propose that we resolve any conflict between contractual obligations not to make this information available and a Commission order to do so? Does your answer differ based on whether the non-disclosure provision is a term in an interconnection agreement?
2. You indicate in the same response that you are also discussing whether a BOC must provide unbranded or rebranded OS/DA through its own OS/DA platform in those states in which the public service commission has concluded that it is not technically feasible for an RBOC to provide unbranded or rebranded OS/DA to CLECs using the RBOC's OS/DA platform.

Have you completed your discussions and, if so, what have you concluded?

How would you expect us to reconcile the conflict between your conclusion and that of the state commission?

As a practical matter, how are we to handle this possibility in preparing our 271 applications?

3. In that same response, you indicate that performance measurements would be crucial to our showing compliance with this checklist item's requirement of nondiscriminatory access to 911 and E911. What additional performance measurements are needed for this checklist item?
4. Are you convinced that there is a need for dedicated trunking to provide rebranded or unbranded OS or DA, independent of whom or how this service is provided? If so, do you believe that this condition of our providing access to rebranded or unbranded OS or DA from our platform can be consistent with our obligation to provide nondiscriminatory access to OS/DA?

Checklist Item # 9 - Numbering Administration

1. In your response to Senator McCain, you say that an RBOC would not be in compliance with this checklist item if it made any attempt "to delay or deny CO code assignments for competing providers of telephone exchange service." Just as a point of clarification, are you excluding denials arising in connection with NPA relief planning?"

Checklist Item # 10 - Databases and Associated Signaling

1. In your view, in order to demonstrate compliance with this checklist item, must we permit a CLEC SCP to interact and send T-CAP messages to our switches?
2. In order for us to show compliance with this checklist item, what evidence is required to show that we are offering nondiscriminatory access to signaling and databases?
3. In particular, what information must appear in our SGATs relating to the process through which a CLEC obtains access to signaling databases?
4. How do you propose we show parity in access to databases for CLECs obtaining access to those databases through a hub provider?

Checklist Item # 11 - Number Portability

1. In response to the McCain letter you said that:

In determining compliance with checklist item 4 (access to unbundled loops), the Commission should consider whether provision of number portability has been coordinated with loop cutovers to prevent prolonged service disruptions.

Would the staff consider coordinating loop cutover with release of the portability instructions to the switch to be sufficient?

In our March 10 meeting you mentioned that another RBOC had found a way to port a number and do loop cutover simultaneously, but you were reluctant to identify the RBOC or to say more how it was accomplishing this. Are you prepared to say more now? If the RBOC can achieve this, does compliance with this checklist item now turn on our ability to do so also?

2. In that same response, you said:

A BOC should be required to furnish a specific method of interim number portability that a competing carrier requests, if such method is technically feasible and not unduly burdensome. ...[I]n deciding whether a particular method is unduly burdensome, relevant factors are the extent of network upgrades needed to provide that particular method, the business needs of the requesting carrier, and the timetable for deployment of a long-term number portability method in that particular geographic location.

Was it your intent to set a new multi-factor test for determining whether an RBOC must offer a particular method of interim number portability? Do you see any shortcomings in the methods offered by BellSouth?

3. In that same response, in discussing long term number portability you say that a timely filed request for extension of the Commission's implementation schedule would toll the obligation to comply with the Commission's rules for purposes of checklist compliance. You add that denial of that request would be grounds for concluding that this checklist item had not been met. Would the grant of such a request toll the obligation to comply for checklist purposes for the duration of the time extension?

Checklist Item # 13 - Reciprocal Compensation

1. Can an RBOC meet checklist item 13 when it is withholding payments to a CLEC
because of disputes over the nature of the traffic originating on the BOC's network?
because of disputes over the amount of traffic originating on the BOC's network?
2. If the Commission has not resolved the nature of ISP traffic originating on an ILEC's network prior to our filing our next applications, how would you expect us to show compliance with checklist item 13?

Checklist Item # 14 - Resale

1. Why does your requiring a resale discount on CSAs not impinge on state public service commissions' authority to determine the extent to which there should be any discount for this service?
2. Under what conditions would application of cancellation fees affect compliance with this checklist item?
3. In your response to the McCain letter, you state:

It is presumptively unreasonable for an ILEC to require individual customers of a reseller to comply with ILEC high-volume discount minimum usage requirements so long as the reseller in aggregate meets the minimal level of demand.

How would you apply this presumption to CSAs?

Track A/Track B

1. Under what circumstances will a PCS provider's operation in a state enable us to satisfy the requirements of Track A? More generally, have you settled on a legal standard for determining when wireless carriers are "competing carriers."
2. Would you find Track A requirements to be met if BellSouth had an approved interconnection agreement with a competitor that was serving business customers over its own facilities and residential customers through resale? Would the Track A requirement be met if one competitor was serving business customers over its own facilities and a different competitor was serving residential customers through resale?
3. On March 3, we discussed whether a state commission's imposing an implementation schedule on CLECs, finding that no CLEC was meeting the schedule and then certifying its finding to the Commission would permit us to proceed under Track B. At that time we posed the following hypothetical. Suppose a state commission required all CLECs already with interconnection agreements to take reasonable steps to compete for residential customers within three months of the commission's imposing this requirement. Also suppose that at the end of the three months the commission could reasonably certify that these CLECs had not taken such reasonable steps and that the commission so certified. Under this hypothetical, would Track B be open to an RBOC seeking 271 authorization for that state? If not, why not?
4. Have you clarified your thinking on whether Track A is open if an ROBOC can demonstrate that there is a facilities-based CLEC offering service to the owner of a building who then resells it to his tenants?
5. Must an interconnection agreement relied upon to show Track A compliance in a state and the SGAT for that state satisfy all the checklist items, or may we rely upon more than one agreement to show compliance with the checklist items?

Public Interest

1. What showing must an RBOC make to demonstrate that a market is "truly open?"
2. What, if anything, in addition to its compliance with the checklist items and Section 272 must an RBOC satisfy to receive authorization?